

STATE OF MICHIGAN
BEFORE THE MICHIGAN SUPREME COURT

COMPLAINT AGAINST:

Hon. Jeanette O'Banner-Owens
36th District Court
421 Madison
Suite 3068
Detroit, MI 48226

Docket No.

Formal Complaint No. 80

PETITION FOR INTERIM SUSPENSION

Pursuant to MCR 9.219, the Michigan Judicial Tenure Commission ("JTC"), by its Executive Director and General Counsel, Paul J. Fischer, requests this Court to order the immediate interim suspension of Hon. Jeanette O'Banner-Owens ("Respondent"), currently a Judge of the 36th District Court in Detroit, Michigan. In support of this petition, the Commission states as follows:

1. Contemporaneous with the filing of this Petition for Interim Suspension, the Commission is filing Formal Complaint No. 80 against the Respondent, which is incorporated by reference. (Attachment 1)
2. Respondent was sworn in as a judge of the 36th District Court in Detroit, Michigan, Wayne County, on May 26, 1988.
3. Respondent's on- and off-the-bench conduct has noticeably deteriorated for approximately the last 18 to 30 months, including, but not limited to, inappropriate remarks, *non sequiturs*, remarks suggestive of bias, forgetting or ignoring the law, making responses not oriented to the questions raised,

unprovoked anger and fear, and appearing at events and in the courthouse dressed unprofessionally. Examples of Respondent's erratic behavior, include, but are not limited to, the following incidents.

A. Laura Smith was Respondent's court reporter for approximately 10 years. At approximately 2:00 p.m. on July 27, 2005, Ms. Smith was sitting in the court room. Two court officers (Kenya Bishop and Derek Triplett), the fire marshal, and two defendants were also present. Respondent entered, broke into the officers' conversation, and commented to the effect, "When intelligence leaves the room, all you are left with is ignorance," then turned and left. Ms. Smith went into chambers and asked Respondent what did she mean and to whom was she referring by that comment. Respondent told her she lacked the intelligence to understand.

The following morning, July 28, 2005, Respondent and Ms. Smith worked together to complete the morning docket, as usual, in the courtroom. When Respondent returned from her lunch break, she locked herself in her chambers. She called Chief Judge Marilyn Atkins and the acting court reporter supervisor, Ruth Whitby, and asked them to remove Ms. Smith, stating she was afraid of Ms. Smith, feared for her life, and wanted security present. There had been no provocation or even conversation between Respondent and Ms. Smith. (See Laura Smith's Affidavit, Attachment 2, and Chief Judge Atkins' Affidavit, Attachment 3)

B. On the morning of October 27, 2006, Attorney James Abbott was seated at the back of Respondent's courtroom with the defendant, waiting

for *Worldwide Asset Purchasing v Denise R. Dickerson*, Case No. 06-127028, to be called. He was substituting for attorney J. Grant Miller in a collection matter. The parties had entered into a consent agreement. Mr. Abbott was waiting to put it on the record and get it entered. He and the defendant were the last persons in the courtroom. Respondent had three files in front of her. She suddenly addressed Mr. Abbott, asking him about the attorneys in the other cases. Mr. Abbott had nothing to do with those other cases and did not know what she was talking about. Respondent's clerk, Rosa Maxwell, tried to tell her that Mr. Abbott was not appearing on the cases she was asking about, that he was in court just for the *Worldwide Asset* case, and that there was already a consent judgment. Respondent became angry with Rosa Maxwell, made some deprecatory comments directed at or about her, commented to the effect that she did not run the courtroom, then left the bench without further comment to Mr. Abbott.

Ms. Rosa Maxwell has been employed by the 36th District court for approximately 30 years and had been Respondent's clerk for over four years. Ms. Maxwell, upset by Respondent's conduct, telephoned the court clerk supervisor, Rose Williams, and advised her she could no longer work with Respondent because her behavior and demeanor of late had become intolerable and this incident was the last straw. Ms. Maxwell then left and began packing up her belongings.

Mr. Abbot and the defendant found themselves alone in an empty courtroom. Mr. Abbot left and advised 36th District Court Chief Judge

Marylin Atkins what happened. She told him to come back at 2:00 p.m. and she would enter the consent judgment. When he went to get the file to take to Chief Judge Atkins, he found Respondent had apparently returned and dismissed the file, notwithstanding the fact there was a signed consent judgment in the file. Respondent dismissed the case without prejudice, noting incorrectly on the signed consent judgment that the plaintiff had not appeared.

C. In speaking with other judges Respondent frequently makes comments of a religious nature. Examples include, but are not limited to, stating her “life is in God’s hands,” “God is good,” and “I am blessed,” and greeting others as a “sister in Jesus.”

4. Pursuant to MCR 9.207(D), Respondent was evaluated at the JTC’s request by three different doctors.
5. Dr. Harvey G. Ager, M.D., P.C., Board Diplomate, American Board of Psychiatry and Neurology, examined Respondent on December 9, 2005. (See Dr. Ager’s Affidavit, Attachment 4, and *Curriculum Vitae*, Attachment 5.) Dr. Ager issued a 17-page report in which he concluded Respondent “is not a likely candidate for psychiatric treatment because she is so defensive and exhibits so much denial” and “tends to project blame on others.” He suspected she was exhibiting “significant psychiatric pathology of a paranoid nature which could influence her ability to perform her usual job as a judge” and recommended she be referred for complete neuropsychological testing to help clarify the diagnosis and also eliminate the possibility of dementia. Based on his examination, Dr. Ager has

strong doubts about Judge O'Banner-Owens' ability to appropriately and impartially fulfill her duties as a 36th District Court Judge on a consistent basis and would therefore be uncomfortable having her preside over a matter in which he was a party.

6. Dr. Manfred Greiffenstein, Ph.D., ABPP-CN, Certified, American Board of Clinical Neuropsychology, evaluated Respondent on January 24, 2006 for approximately four hours. (See Dr. Greiffenstein's Affidavit, Attachment 6, and *Curriculum Vitae*, Attachment 7.) In his report, he found Respondent has "definite mild deficits in memory and other higher cognitive functions," *i.e.*, her scores "were more consistent with an age much older than her chronological age," that the diagnosis of Mild Cognitive Impairment ("MCI") is "apt" and is associated with increased risk for later dementia, and that she is "functional with limitations." Dr. Greiffenstein noted that 10 – 15% of persons with MCI convert to Alzheimers within a year. He also found the neurocognitive findings could influence her performance as a judge under conditions of novelty and higher than normal workloads. Based on his examination, Dr. Greiffenstein has strong doubts about Respondent's ability to understand, encode, and recall the large volumes of evidence necessary to fulfill her duties as a 36th District Court judge on a consistent basis.
7. Dr. Leonard Sahn, M.D., P.C., Diplomate American Board of Psychology & Neurology (N), Clinical Neurophysiology, examined Respondent on September 25, 2006. (See Dr. Sahn's Affidavit, Attachment 8, and *Curriculum Vitae*, Attachment 9) In his report, Dr. Sahn noted that Grievant denied any and all

symptoms of any sort, physical or mental, that she was “extremely garrulous,” bragged about her activities/accomplishments, and engaged in considerable namedropping. He concluded, “It is possible that this was a manifestation of defensiveness, but it was a bit excessive.” Dr. Sahn observed that in his experience of over 30 years, the diagnosis of dementia is far more likely when it is brought to the attention of the individual or physician by others. With respect to the allegations against Respondent and the transcripts he reviewed, Dr. Sahn found that:

[i]f they constitute accurate portrayals of events, I would also be concerned regarding this individual's neuropsychiatric status and her competency, particularly in a position of such high responsibility and in which the need for proper temperament, impartiality (and certainly the appearance of impartiality) and the ability to distinguish nuance and work under pressure are paramount. (Emphasis supplied)

Under the heading “ANALYSIS,” Dr. Sahn observes, despite being unable to make a diagnosis of dementia:

[i]t is well documented and well known that the primary criteria for the diagnosis of dementia, which can present with primarily psychiatric manifestations, largely depends on the history. Therefore, anyone hoping to make a diagnosis early on, particularly with respect to the early neuropsychiatric manifestations of organic dementia, must rely on the observations of others and the behaviors that occur on a daily basis, particularly in stressful situations. Thus, it is of particular concern to me that, for example, someone who has known her for a long time, her court reporter, has, according to your letter, noted that there has been a marked deterioration in the judge's behavior over the last year or two. Id., emphasis supplied.

* * *

It should be stressed that individuals with early dementia or other neuropsychiatric manifestations of a dementing process usually deny the symptoms themselves, but they are obvious to individuals who know them well. In this particular case, since there are transcriptions of actual interactions that Judge O'Banner-Owens has had in the course of her work, it seems obvious that, at the very least, there has been disinhibition. I would also comment that *the syntax of the remarks of the judge are often not logically rigorous or do not make sense. Her remarks, at times, seem to be non sequiturs.* (Emphasis supplied)

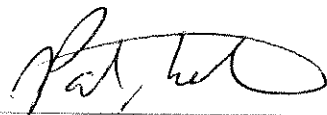
Based on his examination, Dr. Sahn is concerned about Judge O'Banner-Owens neuropsychiatric status and her competency, and has strong doubts about her ability to appropriately and impartially fulfill her duties as a 36th District Court Judge on a consistent basis.


8. Pursuant to MCR 9.219(A)(2), the JTC estimates that it will submit its recommendation to the Supreme Court the week of September 10, 2007. This good-faith estimate assumes that the master can schedule and conclude the evidentiary hearing and make his or her report to the JTC before May 31, 2007. The JTC can then schedule the hearing before it pursuant to MCR 9.216 for its July session and be able to issue its decision the week of September 10, 2007, as noted.
9. Respondent's immediate suspension is necessary for the proper administration of justice, to protect the integrity of the judiciary, and, most importantly, to protect the public.

WHEREFORE, pursuant to MCR 9.219, the Michigan Judicial Tenure Commission requests that this Honorable Court enter an order immediately suspending Respondent from all her duties at the 36th District Court until final adjudication of this Formal Complaint.

Respectfully submitted,

MICHIGAN JUDICIAL
TENURE COMMISSION

By: 
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DATED: March 29, 2007

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**STATE OF MICHIGAN
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION**

COMPLAINT AGAINST:

Hon. Jeanette O'Banner-Owens
36th District Court
421 Madison
Suite 3068
Detroit, MI 48226

_____ /

Docket No.
Formal Complaint No. 80

COMPLAINT

The Michigan Judicial Tenure Commission ("JTC") files this complaint against Honorable Jeanette O'Banner-Owens ("Respondent"), 36th District Court Judge, Detroit, Michigan. This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

1. Respondent is, and at all material times was, a judge of the 36th District Court in Detroit, Michigan.

2. As a judge, Respondent is subject to all the duties and responsibilities imposed on her by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

COUNT I: DEMEANOR/INAPPROPRIATE COMMENTS

3. Respondent has frequently demonstrated an unnecessarily harsh demeanor, interrupted witnesses excessively, made inappropriate and sarcastic remarks and unjustified threats of contempt. Examples include, but are not limited, to:

A. (Evelyn Dubose v Honda Collier and Gary King, Case No. 05-201411 SC)

- (1) The plaintiff in *Evelyn Dubose v Honda Collier and Gary King*, Case No. 05-201411 SC, sued the defendants in small claims regarding a claim of alleged property damage to a fence.
- (2) On information and belief, the defendants, Gary King and Honda Collier, are husband and wife.
- (3) On May 31, 2005, the parties had appeared before Magistrate Thomas Shannon who ruled in favor of the defendants.
- (4) Plaintiff Dubose filed a “claim of appeal” on June 8, 2005.
- (5) On July 1, 2005, Respondent presided over Ms. Dubose’s appeal.
- (6) During the July 1, 2005 hearing, Respondent made several inappropriate and offensive remarks reflective of an unacceptable prejudgment before any testimony was presented, characterizing Ms. Collier as a “renegade,” someone engaging in “illegal” activity who was trying to “hoodwink and bamboozle,” harass and intimidate Ms. Dubose, while referring to Ms. Dubose as a “gentlewoman,” and telling her to keep on talking and to take her time.
- (7) Respondent claimed to be allowing Ms. Collier to speak, but repeatedly cut her off, even when she was trying to respond to a question.
- (8) Respondent also employed inappropriate biblical and religious references to suggest Ms. Collier was acting immorally.
- (9) After awarding plaintiff Dubose damages that exceeded both the amount she had claimed and the amount Respondent had calculated, Respondent warned Ms. Collier to stay off plaintiff’s property. Ms. Collier responded no one was

on plaintiff's property. Respondent then made comments demonstrating excessive concern for the plaintiff, suggested she wait before departing, and implied she had something to fear from Ms. Collier.

B. (*Tonya M. Thomas-Barnes v Cassandra Marshall, Case No. 04-202751*)

- (1) In *Tonya M. Thomas-Barnes v Cassandra Marshall*, Case No. 04-202751, the parties appeared before Respondent on June 27, 2005, *in pro per*, for a final pretrial conference.
- (2) During the June 27, 2005 pretrial, Respondent scheduled a bench trial for August 29, 2005, and advised the parties to notify their witnesses, after which she asked Ms. Barnes, "This was sold in a Sheriff's sale?"
- (3) For some reason, Respondent then proceeded to "try" the matter she had just scheduled for trial on August 29, 2005, without swearing the parties in or giving them the opportunity to fully prepare, present their witnesses or evidence.
- (4) Respondent denied Ms. Marshall any meaningful opportunity to state her position, made incorrect assumptions and remarks suggesting unacceptable prejudgment against Ms. Marshall, without having heard or understood the facts, and exhibited a sarcastic demeanor toward her.
- (5) Respondent concluded the pretrial conference by dismissing the case and granting the counterclaim.

C. (BDB Properties, LLC v Khadijah Ahmad, Case No. 04-145195)

- (1) In *BDB Properties, LLC v Khadijah Ahmad*, Case No. 04-145195, Respondent presided over the plaintiff's motion for reconsideration and oral argument on July 20, 2005. Respondent had previously ordered the plaintiff to return moneys properly paid by the defendant tenant to the Plaintiff.
- (2) Respondent disparaged the plaintiff, based on Respondent's own failure to understand the matter before her, with comments such as:

THE COURT:

[I]t's just a case of a person trying to do right and living in the building. Plaintiff *abused every method to nickel and dime to get her after she just tried to pay it off*. I'm satisfied. If the matter was before me again, and I heard such a case of egregiousness. *Where a person actually brings you a check and they still get a garnishment* for additional monies, after they've moved and paid everything off, and tried to do the best they could in moving. Counselor, I'm not persuaded. (TR, pp. 15 -- 16, emphasis added)

* * *

In this case, I just believe it is not the ordinary case, but *I've never seen anyone that is so bent on continuing to collect from a person who has tried to be as gracious as possible in moving out of the building and giving the keys back*. And having the approval of the people that work there to help her move.

So, I'm going to leave it as it is counselor. Of course, you're very welcome whatever your rights to appeal to my brother and sister judges over in Circuit Court.

D. Prior Incidents: (a) *Miller v Singh*, Case No. 2001-20290 and (b) *Maxtara Contractors Inc v Hernietha Hamilton*, Case No. 2003-201587

(a) *Miller v Singh*, Case No. 2001-20290

- (1) In *Miller v Singh*, Case No. 2001-20290 (set forth more fully in Count II, E (a) par. (1), on October 12, 2001, Respondent repeatedly cut off Mr. Singh, who is from India and speaks with an accent, preventing him from explaining his position, angrily referred to his lease agreement and attempt to mitigate damages by protecting his house after it was abandoned by the tenant as “illegal” and “immoral” acts toward the tenant, an African American who Respondent emphasized was a “citizen of the City of Detroit, County of Wayne, State of Michigan” while repeatedly emphasizing Mr. Singh was not.
- (2) Respondent, without justification, found Mr. Singh in contempt and ordered him into the “box,” directed the opposing party to obtain a transcript of proceedings and take it to the police, and wrongly implied Mr. Singh had committed a crime.
- (3) On August 21, 2002, Respondent continued to disparage Mr. Singh in remarks to his attorney, stating she believed Mr. Singh “macked [sic] him for the money for \$100 a month extra” and referred to Mr. Singh “like he is the gestoppel [sic].”

(b) *Maxtara Contractors, Inc., d/b/a Bathtub Liners of Michigan, Inc., v. Hernietha Hamilton*, Case No. 03-201587

- (1) In the small claims case, *Maxtara Contractors, Inc., d/b/a/ Bathtub Liners of Michigan, Inc., v. Hernietha Hamilton*, Case No. 03-201587, set forth more

fully in Count II, par. E(b), Mr. Oslund, representing his plaintiff corporation, mentioned that although it was a default, the Magistrate had gone over the evidence.

- (2) Respondent, who had already incorrectly claimed he needed an attorney, responded angrily by unjustifiably threatening him with contempt, and arbitrarily granting the defendant's objection to the garnishment:

THE COURT: Let me say this, sir. *Number one, you're going to be sitting in the box because no one argues with me. So I'm going to ask you to watch your demeanor, because you really need an attorney to represent you.* Because you may find yourself in a situation that you don't want to be in. I'm looking at the Judge's order. If I say it's a nonappearance default, that's exactly what it is. You need an attorney... Objection to garnishment granted. (*Maxtara Transcript*, p. 8)

E. Miscellaneous Inappropriate Comments

- (1) Respondent has frequently made disparaging comments to litigants, court employees, and others to the effect that "when intelligence leaves the room, only ignorance is left" and "some people have class that money can't buy."
- (2) With respect to solicitation cases, Respondent has on occasion made comments to the effect that Eight Mile Road is not a boundary but "they" come into Detroit to do their dirty work.
- (3) In speaking with other judges Respondent frequently makes comments of a religious nature, including, but not limited to, stating her "life is in God's hands," "God is good," and "I am blessed," and greeting others as a "sister in Jesus."

4. Respondent's conduct, as alleged in Count I, constitutes the following violations of judicial conduct standards:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct ("MCJC"), Canon 1;
- d. Failure to bear in mind that the judicial system is for the benefit of the litigant and the public, not the judiciary, contrary to MCJC, Canon 1;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- f. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- g. Failure to be faithful to the law and to maintain professional competence in it, contrary to MCJC, Canon 3A(1);
- h. Failure to be patient, dignified, and courteous to those with whom you deal in an official capacity, contrary to MCJC, Canon 3A(3);
- i. Demonstrating a severe attitude toward witnesses, tending to prevent the proper presentation of the cause or ascertainment of the truth, and failure to avoid a controversial manner or tone in addressing litigants or witnesses, in violation of MCJC, Canon 3A(8)
- j. Abuse of the contempt power;

- k. Lack of personal responsibility for her own behavior and for the proper conduct and administration of the court in which she preside, contrary to MCR 9.205(A);
- l. Persistent incompetence in the performance of judicial duties, contrary to MCR 9.205(B)(1)(a);
- m. Persistent failure to treat persons fairly and courteously, contrary to MCR 9.205 (B)(1)(c);
- n. Treating persons unfairly or discourteously because of the person's race, gender, or other protected personal characteristic, contrary to MCR 9.205(B)(1)(d);
- o. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- p. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- q. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- r. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

COUNT II: LACK OF KNOWLEDGE/INCOMPETENCE

5. Respondent has frequently voiced erroneous legal opinions and issued erroneous rulings, demonstrating a lack of competence inexcusable in an experienced judge. Examples include, but are not limited to:

A. (People v Evuard Roovell Lazar, Case No. 525982)

- (1) On January 19, 2005, Respondent presided over a plea hearing in *People v Evuard Roovell Lazar*, Case No. 525982, a misdemeanor case of operating while intoxicated (“OWI”) involving a rear-end accident.
- (2) Mr. Lazar, a resident of Grosse Pointe, was represented by attorney Gary Wilson. Mr. Wilson advised Respondent that Mr. Lazar wished to tender a plea of no contest to the charges of operating while intoxicated.
- (3) Respondent replied, “Can’t do it for a no contest” but “he can establish a plea.” Respondent then asked for the “reason that he has to have it no contest?” Mr. Wilson replied that there had been an accident with an alleged injury.
- (4) Respondent appeared confused as to the purpose of a *nolo contendere* plea. She first denied that one of the reasons was to protect from civil liability, claiming “*nolo contendere* is reserved for two reasons. *And that wouldn’t be to protect him from civil liability if he’s injured another citizen*” and then almost immediately admitting the reasons are “You’re too drunk to remember, *or either to protect him from civil liability.*”
- (5) In denying the defendant’s plea, Respondent made comments that reflected her ruling was motivated by bias or created the appearance of bias.

B. (Evelyn Dubose v Honda Collier and Gary King, Case No. 05-201411 SC)

- (1) The plaintiff in *Evelyn Dubose v Honda Collier and Gary King*, Case No. 05-201411 SC, sued the defendants in small claims regarding a claim of alleged property damage to a fence.

- (2) During the July 1, 2005 hearing, as set forth more fully in Count I A, Respondent made several disparaging remarks and exhibited a harsh demeanor suggestive of bias or prejudice in favor of the plaintiff and against defendant Collier.
- (3) Ms. Collier purchased a house next to the plaintiff. The house lacked a driveway. Ms. Collier obtained a survey revealing the plaintiff had encroached on the property by 17 inches necessary for the driveway installation, necessitating the temporary removal of a fence and storage shed.
- (4) Respondent insisted Ms. Collier acted “illegally” by not obtaining prior court authority.
- (5) The plaintiff had sought \$2,483.85 in alleged damages. Respondent calculated a total of \$2,533.00 in damages but awarded plaintiff \$3,000.00 plus costs. (*Dubose* TR, pp. 12, 22)
- (6) On rehearing, Judge Bradfield reduced the award to \$1,601.85 plus costs.

C. (*Tonya M. Thomas-Barnes v Cassandra Marshall, Case No. 04-202751*)

- (1) In *Tonya M. Thomas-Barnes v Cassandra Marshall*, Case No. 04-202751, the parties appeared before Respondent on June 27, 2005, *in pro per*, for a final pretrial conference at which Respondent scheduled a bench trial for August 29, 2005 on the plaintiff’s counter-complaint, and advised the parties to notify their witnesses.

- (2) Respondent then asked Ms. Barnes, “This was sold in a Sheriff’s sale?” and proceeded to “try” the matter, without the parties having been sworn in, or having the opportunity to prepare and present witnesses or evidence.
- (3) Respondent appeared to have prejudged the matter and demonstrated a sarcastic demeanor toward Ms. Marshall, interrupted her and denied her any meaningful opportunity to explain her position.
- (4) Respondent concluded the pretrial conference by dismissing the case and granting Ms. Thomas-Barnes’ counterclaim.

(D) (*BDB Properties, LLC v Khadijah Ahmad*, Case No. 04-145195)

- (1) In *BDB Properties, LLC v Khadijah Ahmad*, Case No. 04-145195, set forth more fully in Count I C, the Plaintiff had received a default judgment against the defendant tenant Ahmad. After receiving notice her wages were going to be garnished, the defendant paid the plaintiff.
- (2) The plaintiff released the garnishment and was ready to issue a satisfaction of judgment. On April 18, 2005, the defendant filed an objection to the garnishment. Respondent presided over the hearing on May 4, 2005 and ordered release of the monies the defendant had paid.
- (3) Plaintiff filed a motion for reconsideration and oral argument. On July 20, 2005, Respondent presided over the hearing on the plaintiff’s motion.
- (4) Both the plaintiff and defendant tenant had explained that the tenant had paid the amount of the judgment, \$2,743.18, *after* the garnishment, yet Respondent was unable to grasp the situation:

THE COURT: Now, you were saying that you walked into their office?

MS. AHMAD: Paid them the \$2,700 --

THE COURT: -- forty-three dollars and 18 cents.

THE COURT: Right. *Then after that, they filed a Motion to Garnish you?*

MS. AHMAD: *No, they filed the Motion to Garnish me first. Then I paid it.* (TR, p. 8, emphasis added)

- (5) In her ruling, Respondent misstated the facts with respect to the timing of the garnishment, notwithstanding having been advised by *both* parties that the defendant paid the money owed *after* the garnishment. Respondent also demonstrated an inability to comprehend the issue at hand, resulting in the incomprehensible order that plaintiff return the payment made by defendant pursuant to the garnishment.

E. Prior Incidents: (a) *Miller v Singh*, Case No. 2001-20290 and (b) *Maxtara Contractors Inc v Hernetha Hamilton*, Case No. 2003-201587

(a) (*Miller v Singh*, Case No. 2001-20290)

- (1) In *Miller v Singh*, Case No. 2001-20290, Respondent misstated the law, falsely implied Mr. Singh had committed a crime and unjustifiably threatened him with contempt:

THE COURT: Let me caution you. *Because you've given me enough information that your acts are criminal.* It does not comply with landlord tenant law in the State of Michigan. *And you're going to have a hard time in the City of Detroit, County of Wayne where you have gone over there and the person has paid to July 31st.* And you used self-help, and

lock out any property. You cannot lock a person out ever. *It's illegal, not only immoral.* I don't care what these pictures is; do you understand me Mr. Singh?

MR. SINGH: Ma'am, ma'am, I do understand but---

THE COURT: *Mr. Singh have a seat in the box. You're illegal and you're wrong.*

MR. SINGH: Ma'am unless---

THE COURT: *Mr. Singh I caution you. Cause it's going to cost you when I [sic] you start talking when I haven't asked you to. You're illegal. You're against the laws in the State of Michigan.*

Any time you go over and lock, change locks on a person, and they have not paid rent for a month is only when you're able to file a suit. But the law says that you never take yourself over there and change the locks on a party anywhere in the State of Michigan. You can go to the 52 states. *The law does not allow you to do that in America. And when you do that, you're going to find yourself in places that you never been.*

This Court is looking at you today 'cause you're in contempt of court. When I'm talking, if you continue to tell me of an illegal act, that we have you on the record in stating that you did to a citizen of the City of Detroit, County of Wayne, State of Michigan. It's illegal. Not only immoral, it's illegal. And I've heard enough on the record, that is illegal in any state.

You're using *vigilante* that you can't do. Check with any legal office. Check with the one that's in your jurisdiction; Beverly Hills, Michigan. Where a former governor came from, Jim Blanchard. It's illegal. And no governor will allow it. No president of the United States would allow it. So you're going to have some problems. And when you start tell me about some pictures after you admitted to me that you changed the locks on a person's house, you're gone beyond the law. And it's unacceptable.

You don't want me to exercise any powers when you're in contempt suspontae [sic]. You can go to jail today, forthwith, without a trial. And if you don't believe the Court, you call the judges of Beverly Hills, Michigan.

They'll tell you the same thing. (*Miller v Singh*, 01-20290, October 12, 2001, TR, pp. 22 – 24)

(b) (*Maxtara Contractors, Inc., d/b/a Bathtub Liners of Michigan, Inc., v. Hernietha Hamilton, Case No. 03-201587*)

- (1) In *Maxtara Contractors, Inc., d/b/a Bathtub Liners of Michigan, Inc., v. Hernietha Hamilton*, Case No. 03-201587, Respondent committed legal error in insisting the plaintiff corporation could not appear in small claims without an attorney, a position contrary to fundamental small claims law, and unjustifiably threatened the plaintiff representative with contempt.
- (2) Mr. Jeffrey S. Oslund appeared before Respondent on behalf of plaintiff Maxtara Contractors in the small claims matter. Respondent denied his corporation its day in court by denying its statutory right to represent itself, and ignored a motion to reconsider and to have the matter removed from Small Claims to District Court.
- (3) Respondent told Mr. Oslund he needed an attorney and asked him if he wanted the matter adjourned so that his attorney could “come forward.” He responded, “Absolutely, your honor.”
- (4) Notwithstanding Respondent’s erroneous statement and Mr. Oslund’s response, she denied him the right to counsel, threatened him with contempt for no reason, and arbitrarily granted the defendant’s objection to garnishment.

- (5) When Mr. Oslund explained he represented Maxtara Contractors as president of the corporation Respondent stated: "Okay, so then you must be represented by an attorney. And you should know that." Mr. Oslund replied: "This small claims matter that I'm on?" (*Maxtara TR*, p. 4)
- (6) After yet again misinforming Mr. Oslund that the plaintiff corporation needed an attorney, Respondent asked him: "*So what do we do here? Do you want me to adjourn this so your attorney can come forward?*" (*TR*, p. 7, emphasis added)
- (7) When Mr. Oslund responded in the affirmative, Respondent directed him to the Wolverine Bar Association:

THE COURT: You need an attorney too. The Wolverine Bar Association is the African-American Bar Association that would give you corporate representation. Let me ask you sir, so didn't get the work so why are you –

- (8) Mr. Oslund mentioned that although it was a default, the Magistrate had gone over the evidence. Respondent challenged his statement, threatened him with contempt, and arbitrarily granted the defendant's objection to the garnishment:

THE COURT: Let me say this, sir. Number one, you're going to be sitting in the box because no one argues with me. So I'm going to ask you to watch your demeanor, because you really need an attorney to represent you. Because you may find yourself in a situation that you don't want to be in. I'm looking at the Judge's order. If I say it's a nonappearance default, that's exactly what it is. You need an attorney... Objection to garnishment granted.

- (9) Respondent wrongly claimed it is the law in the state of Michigan that a corporation, whether or not it is on a small claims matter, must be represented by an attorney, “not could be, not may, not should be, but must,” and that Mr. Oslund should know that.
- (10) Respondent, a district court judge for 16 years, acted intentionally, negligently or incompetently by insisting the plaintiff corporation needed to be represented by an attorney in a small claims case, contrary to MCL 600.8412.
- (11) Respondent, at the time a district court judge for 16 years, acted intentionally, negligently or incompetently by insisting the plaintiff corporation needed to be represented by an attorney in a small claims case, contrary to MCL 600.8408.
- (12) Respondent’s actions were also contrary to MCR 4.301, the Michigan Court Rule regarding Small Claims, which provides that actions in a small claims division are governed by the procedural provisions of Chapter 84 of the Revised Judicature Act, MCL 600.8401 *et seq.*

6. Respondent’s conduct, as alleged in Count II, constitutes the following violations of judicial conduct standards:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;

- c. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct ("MCJC"), Canon 1;
- d. Failure to bear in mind that the judicial system is for the benefit of the litigant and the public, not the judiciary, contrary to MCJC, Canon 1;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- f. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- g. Failure to be faithful to the law and to maintain professional competence in it, contrary to MCJC, Canon 3A(1);
- h. Failure to be patient, dignified, and courteous to those with whom you deal in an official capacity, contrary to MCJC, Canon 3A(3);
- i. Demonstrating a severe attitude toward witnesses, tending to prevent the proper presentation of the cause or ascertainment of the truth, and failure to avoid a controversial manner or tone in addressing litigants or witnesses, in violation of MCJC, Canon 3A(8)
- j. Abuse of the contempt power;
- k. Lack of personal responsibility for her own behavior and for the proper conduct and administration of the court in which she preside, contrary to MCR 9.205(A);
- l. Persistent incompetence in the performance of judicial duties, contrary to MCR 9.205(B)(1)(a);
- m. Persistent failure to treat persons fairly and courteously, contrary to MCR 9.205 (B)(1)(c);
- n. Treating persons unfairly or discourteously because of the person's race, gender, or other protected personal characteristic, contrary to MCR 9.205(B)(1)(d);

- o. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- p. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- q. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- r. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

COUNT III: ETHNOCENTRIC REMARKS/BIAS

7. Respondent has frequently made ethnocentric remarks and other comments reflecting bias or creating the appearance of bias in favor of parties from Detroit or who are African-American versus other ethnic or racial origins. Examples include, but are not limited to:

A. (*People v Evuard Roovell Lazar*, Case No. 525982)

- (1) In *People v Evuard Roovell Lazar*, Case No. 525982, Respondent made remarks reflecting a lack of impartiality and suggestive of bias because the African-American victim was from Detroit and Mr. Lazar, who is Caucasian, was not: “Right, and I don’t want to protect him against civil liability as to *another citizen of Detroit that was injured.*”
- (2) Respondent also emphasized that “he,” referring to Mr. Lazar, was not someone she wanted to protect.

B. (Prior Incidents: *Miller v Singh*, Case No. 2001-20290 and *Maxtara Contractors Inc v Hernetha Hamilton*, Case No. 2003-201587)

(1) Respondent's comments regarding the "citizens of Detroit," made on January 19, 2005, in *People v Lazar*, set forth in detail in Count II, par. A and Count III, par. A, are part of a pattern of ethnocentric remarks she has made in prior cases:

- (a) In *Miller v Singh*, Case No. 01-20290, the defendant was from India and spoke with an accent. Respondent was unduly harsh, repeatedly cut Mr. Singh off, falsely implied he had committed a crime, and demonstrated bias and favoritism by her actions and repeated remarks emphasizing that the plaintiff, an African American, was a "citizen of the City of Detroit, County of Wayne, State of Michigan," ordering Mr. Singh into the jury box for no reason and unjustifiably threatening him with contempt.
- (b) On October 12, 2001, while conducting a hearing on appeal from small claims in *Miller v Singh*, 01-20290, Respondent demonstrated a harsh and improper demeanor toward the defendant landlord, and prevented him from presenting a meaningful defense. Both parties were *in pro per*. Her conduct, rulings and remarks created an appearance of prejudice and bias that was racial in nature.
- (c) On August 21, 2002, Respondent continued to display a biased attitude toward Mr. Singh and his attorney:

THE COURT: *I believe that he saw a person that he could persuade that they could buy the house for \$100 earnest money, while putting up a security deposit like a common tenant; and he macked [sic] him for the money for \$100 a month extra.*

And then he didn't show up when the Defendant asked him to meet him. But went over there and used self-help on his own. *Like he is the gestoppel [sic] in the City of Detroit, County of Wayne, State of Michigan, and locked him out.*

MR. DYER: Your Honor briefly –

THE COURT: Counselor I'm not asking you to rule, and don't interrupt me. *It will cost you. I'm not playing with you. I've listened and indulged you for a long time with Mr. Singh. And I'm going to tell you the way I see him operating in the City of Detroit, County of Wayne, State of Michigan; okay?*

MR. DYER: That's fine, your Honor.

THE COURT: *I believe he macked [sic] him for the extra \$100 as earnest money, which was unfair.*

(2) Respondent's comments regarding the "citizens of Detroit," made on January 19, 2005, in *People v Lazar*, set forth in detail in Count II, par. A and Count III, par. A, are part of a pattern of ethnocentric remarks she has made in prior cases, including *Maxtara Contractors Inc v Hernetha Hamilton*, Case No. 2003-201587.

(a) In *Maxtara Contractors, Inc., d/b/a/ Bathtub Liners of Michigan, Inc., v. Hernietha Hamilton*, Case No. 03-201587, the plaintiff had obtained a default judgment before the magistrate in small claims to garnishee the defendant, Ms. Hamilton, in the amount of \$749, for a deposit for custom materials she had ordered, after which she decided not to have the work done. Approximately two months later, the defendant filed

an objection to the garnishment. Mr. Oslund, as president of the corporation, appeared on its behalf for a hearing on the objections on August 26, 2003.

- (b) Respondent did not allow the plaintiff an opportunity to argue his position by himself or by an attorney, treated him condescendingly and harshly, threatened him with contempt without justification, made remarks suggestive of bias because he was not from Detroit, referred him to the Wolverine Bar Association which she identified as the “African-American Bar Association that would give you corporate representation,” and displayed sympathy for the defendant, an African-American from Detroit, without ever hearing the plaintiff’s evidence.
- c) Respondent made comments suggestive of bias against the plaintiff corporation’s representative, Mr. Oslund, who is Caucasian, and in favor of the defendant, who is African-American, by emphasizing the Plaintiff was from Troy:

THE COURT: [A]nd it makes no difference which jurisdiction. You’re from Troy, you’re in Troy, then that Judge would ask you to have your attorney there too. If you’re in Mackinaw, that Judge would ask you to have it there too. So it’s not something that the Detroit Judge is making up. It is the law for the entire state; you should know that.

- d) After the defendant, Ms. Hernietha Hamilton, was sworn in, Respondent questioned her about her objection. Respondent informed her she failed to appear at the June 2 hearing and failed to appeal within 21 days so the judgment was final.

- c) Ms. Hamilton replied she was not at the hearing, which initiated the following dialogue during which, under the guise of questioning the defendant, Respondent assumed facts and argued on the defendant's behalf:

THE COURT: Right, so it was by default. You didn't even come to tell the Judge what was going on. *Because if he had heard you, he would have understood the situation.* Now that the judgment is probably back there in June 2nd, now you're coming to talk. *Why didn't you tell that Judge as to you not getting the work and they cashed your check, and spent your son's glasses money, and that you didn't even get the work done with this corporation?* (emphasis supplied)

MS. HAMILTON: You're right.

THE COURT: *And they've taken advantage of you by having you pay for it.* (emphasis supplied)

MS. HAMILTON: They took advantage of me, yes.

- (f) The JTC expressed its deep concern over an apparent developing pattern of improper demeanor and appearance of bias created by Respondent's conduct. Respondent was warned that an additional incident might result in formal action.
- (g) Nevertheless, on January 19, 2005, just one month later, Respondent engaged in the misconduct more fully set forth in Counts II and III in the *Lazar* case.

C. (Miscellaneous Ethnocentric Remarks)

(1) With respect to solicitation cases, Respondent has on occasion made comments to the effect that “Eight Mile Road is not a boundary but they come into Detroit to do their dirty work.”

8. Respondent’s conduct, as alleged in Count III, constitutes the following violations of judicial conduct standards:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct (“MCJC”), Canon 1;
- d. Failure to bear in mind that the judicial system is for the benefit of the litigant and the public, not the judiciary, contrary to MCJC, Canon 1;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- f. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public’s confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- g. Failure to be faithful to the law and to maintain professional competence in it, contrary to MCJC, Canon 3A(1);
- h. Failure to be patient, dignified, and courteous to those with whom you deal in an official capacity, contrary to MCJC, Canon 3A(3);

- i. Demonstrating a severe attitude toward witnesses, tending to prevent the proper presentation of the cause or ascertainment of the truth, and failure to avoid a controversial manner or tone in addressing litigants or witnesses, in violation of MCJC, Canon 3A(8)
- j. Abuse of the contempt power;
- k. Lack of personal responsibility for her own behavior and for the proper conduct and administration of the court in which she preside, contrary to MCR 9.205(A);
- l. Persistent incompetence in the performance of judicial duties, contrary to MCR 9.205(B)(1)(a);
- m. Persistent failure to treat persons fairly and courteously, contrary to MCR 9.205 (B)(1)(c);
- n. Treating persons unfairly or discourteously because of the person's race, gender, or other protected personal characteristic, contrary to MCR 9.205(B)(1)(d);
- o. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- p. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- q. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- r. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

COUNT IV: MENTAL STATE

9. Respondent Respondent's on- and off-the-bench conduct has noticeably deteriorated for approximately the last 20 to 30 months, including, but not limited to, inappropriate remarks, acting in a biased manner, creating the appearance of bias, failure to modify her conduct despite warnings by the JTC, forgetting or ignoring the law, making

responses not oriented to the questions raised, and appearing at events and in the courthouse dressed unprofessionally. Examples include, but are not limited to:

A. (Events of late July 2005)

- (1) Laura Smith was Respondent's court reporter for approximately 10 years. At approximately 2:00 p.m. on July 27, 2005, Ms. Smith was sitting in the court room. Two court officers (Kenya Bishop and Derek Triplett), the fire marshal, and two defendants were also present.
- (2) Respondent entered, broke into the officers' conversation, and commented to the effect, "When intelligence leaves the room, all you are left with is ignorance," then turned and left.
- (3) Ms. Smith went into chambers and asked Respondent what did she mean and to whom was she referring by that comment. Respondent told her she lacked the intelligence to understand.
- (4) The following morning, July 28, 2005, Respondent and Ms. Smith worked together in the courtroom, as usual, to complete the morning docket.
- (5) When Respondent returned from her lunch break, she locked herself in her chambers.
- (6) Respondent called Chief Judge Marilyn Atkins and asked her to come, stating she feared for her life, wanted security present and Ms. Smith removed.
- (7) Respondent also called the acting court reporter supervisor, Ruth Whitby, and asked her to come, stating she was afraid of Ms. Smith, felt threatened, and wanted her to remove Ms. Smith.

- (8) There had been no provocation or even conversation between Respondent and Ms. Smith prior to the incident.

B. (Events of October 27, 2006)

- (1) On the morning of October 27, 2006, Attorney James Abbott was seated at the back of Respondent's courtroom with the defendant, waiting for *Worldwide Asset Purchasing v Denise R. Dickerson*, Case No. 06-127028, to be called. He was substituting for attorney J. Grant Miller in a collection matter.
- (2) The parties had entered into a consent agreement. Mr. Abbott was waiting to put it on the record and get it entered. He and the defendant were the last persons in the courtroom.
- (3) Respondent had three files in front of her. She suddenly addressed Mr. Abbott, asking him about the attorneys in the other cases.
- (4) Mr. Abbott had nothing to do with those other cases and did not know what she was talking about. He never got to say a word.
- (5) Respondent's clerk, Rosa Maxwell, tried to tell her that Mr. Abbott was not appearing on the cases she was asking about, that he was in court just for the *Worldwide Asset* case, and that there was already a consent judgment.
- (6) Respondent became angry with Rosa Maxwell, made some deprecatory comments directed at or about her, commented to the effect that she did not run the courtroom, then left the bench without further comment to Mr. Abbott.
- (7) Ms. Rosa Maxwell has been employed by the 36th District court for approximately 30 years and had been Respondent's clerk for over four years.

- (8) Ms. Maxwell telephoned the court clerk supervisor, Rose Williams, and advised her she could no longer work with Respondent because her conduct and demeanor had become intolerable and this incident was the last straw. Ms. Maxwell then left and began packing up her belongings.
- (9) Mr. Abbot and the defendant found themselves alone in an empty courtroom.
- (10) Mr. Abbot left and advised 36th District Court Chief Judge Marylin Atkins what had happened. She told him to come back at 2:00 p.m. and she would enter the consent judgment. When he went to get the file to take to Chief Judge Atkins, he found Respondent had apparently returned and dismissed the file, notwithstanding the fact there was a signed consent judgment in the file.
- (11) Respondent dismissed the case without prejudice, based on the false premise that the plaintiff had not appeared.

C. (Psychological Examinations)

- (1) Dr. Harvey Ager, board certified psychiatrist, examined Respondent on December 9, 2005. He issued a 17-page report in which he concluded Respondent “is not a likely candidate for psychiatric treatment because she is so defensive and exhibits so much denial” and “tends to project blame on others.” He suspects she is exhibiting “significant psychiatric pathology of a paranoid nature which could influence her ability to perform her usual job as a judge.” Based on his examination, Dr. Ager has strong doubts about Judge O’Banner-Owens ability to appropriately and impartially fulfill her duties as a

36th District Court Judge on a consistent basis and would therefore be uncomfortable having her preside over a matter in which he was a party.

- (2) Dr. Manfred Greiffenstein evaluated Respondent on January 24, 2006. In his report, dated January 31, 2006, he found that Respondent has “definite mild deficits in memory and other higher cognitive functions,” *i.e.*, her scores “were more consistent with an age much older than her chronological age,” that the diagnosis of Mild Cognitive Impairment (“MCI”) is “apt” and is associated with increased risk for later dementia, and that she is “functional with limitations.” He noted that 10 – 15% of persons with MCI convert to Alzheimers within a year, and found that the neuro-cognitive findings could influence her performance as a judge under conditions of novelty and higher than normal workloads. Based on his examination, Dr. Greiffenstein has strong doubts about Respondent’s ability to understand, encode, and recall the large volumes of evidence necessary to fulfill her duties as a 36th District Court judge on a consistent basis.

- (3) Dr. Leonard Sahn, M.D., P.C., Diplomate American Board of Psychology & Neurology (N), Clinical Neurophysiology, examined Respondent on September 25, 2006. In his report, Dr. Sahn noted that Grievant denied any and all symptoms of any sort, physical or mental, that she was “extremely garrulous,” bragged about her activities/accomplishments, and engaged in considerable namedropping. He concluded, “It is possible that this was a

manifestation of defensiveness, but it was a bit excessive.” Dr. Sahn observed that in his experience of over 30 years, the diagnosis of dementia is far more likely when it is brought to the attention of the individual or physician by others. With respect to the allegations against Respondent and the transcripts that he reviewed, Dr. Sahn found that:

[i]f they constitute accurate portrayals of events, I would also be concerned regarding this individual's neuropsychiatric status and her competency, particularly in a position of such high responsibility and in which the need for proper temperament, impartiality (and certainly the appearance of impartiality) and the ability to distinguish nuance and work under pressure are paramount. (Emphasis supplied)

Dr. Sahn observed, despite being unable to make a diagnosis of dementia:

[i]t is well documented and well known that the primary criteria for the diagnosis of dementia, which can present with primarily psychiatric manifestations, largely depends on the history. Therefore, anyone hoping to make a diagnosis early on, particularly with respect to the early neuropsychiatric manifestations of organic dementia, must rely on the observations of others and the behaviors that occur on a daily basis, particularly in stressful situations. Thus, it is of particular concern to me that, for example, someone who has known her for a long time, her court reporter, has, according to your letter, noted that there has been a marked deterioration in the judge's behavior over the last year or two. Id., emphasis supplied.

* * *

It should be stressed that individuals with early dementia or other neuropsychiatric manifestations of a dementing process usually deny the symptoms themselves, but they are obvious to individuals who know them well. In this particular case, since there are transcriptions of actual interactions that Judge

O'Banner-Owens has had in the course of her work, it seems obvious that, at the very least, there has been disinhibition. I would also comment that *the syntax of the remarks of the judge are often not logically rigorous or do not make sense. Her remarks, at times, seem to be non sequiturs.* (Emphasis supplied)

Based on his examination, Dr. Sahn is concerned about Judge O'Banner-Owens neuropsychiatric status and her competency, and has strong doubts about her ability to appropriately and impartially fulfill her duties as a 36th District Court Judge on a consistent basis.

10. Respondent's conduct, as alleged in Count IV, constitutes the following violations of judicial conduct standards:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct ("MCJC"), Canon 1;
- d. Failure to bear in mind that the judicial system is for the benefit of the litigant and the public, not the judiciary, contrary to MCJC, Canon 1;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- f. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the

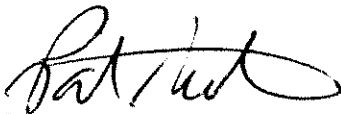
public's confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;

- g. Allowing family, social, or other relationships to influence judicial conduct or judgment, in violation of MCJC, Canon 2C;
- h. Failure to be faithful to the law and to maintain professional competence in it, contrary to MCJC, Canon 3A(1);
- i. Failure to be patient, dignified, and courteous to those with whom you deal in an official capacity, contrary to MCJC, Canon 3A(3);
- j. Lack of personal responsibility for her own behavior and for the proper conduct and administration of the court in which you preside, contrary to MCR 9.205(A);
- k. Mental disability that prevents consistent, competent performance of judicial duties, grounds for action as set forth in MCR 9.205 (B);
- l. Persistent incompetence in the performance of judicial duties, contrary to MCR 9.205(B)(1)(a);
- m. Persistent failure to treat persons fairly and courteously, contrary to MCR 9.205 (B)(1)(c);
- n. Treating persons unfairly or discourteously because of the person's race, gender, or other protected personal characteristic, contrary to MCR 9.205(B)(1)(d);
- o. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- p. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- q. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- r. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

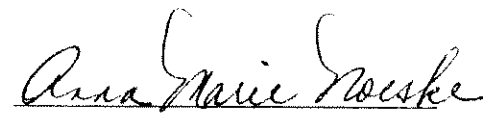
Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service upon Respondent of the Complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment, misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action under the complaint.

JUDICIAL TENURE COMMISSION
OF THE STATE OF MICHIGAN

3034 W. Grand Boulevard, Suite 8-450
Detroit, MI 48202

By: 

Paul J. Fischer (P 35454)
Examiner



Anna Marie Noeske (P 34091)
Associate Examiner

Dated: March 29, 2007

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**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

AFFIDAVIT OF LAURA SMITH

State of Michigan]
Wayne County |

LAURA SMITH, being sworn, says:

1. I am Laura Smith, a court reporter at the 36th District Court. I am familiar with the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them.

2. I was Judge Jeanette O'Banner-Owens' court reporter for approximately 10 years. At approximately 2:00 p.m. on July 27, 2005, I was sitting in the court room. Two court officers (Kenya Bishop and Derek Triplett), the fire marshal, and two defendants were also present.

3. Judge O'Banner-Owens entered and interrupted an ongoing casual conversation between between the officers with a comment to the effect, "When intelligence leaves the room, all you are left with is ignorance," then turned and left.

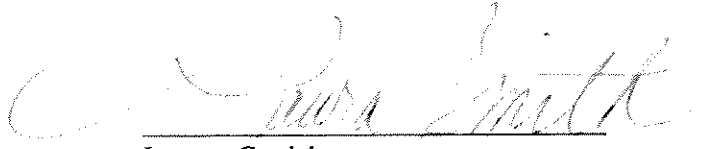
4. I went into chambers and asked Judge O'Banner-Owens what she meant and to whom was she referring by that comment. She told me that I lacked the intelligence to understand.

5. The following morning, July 28, 2005, Judge O'Banner-Owens and I worked together, as usual, in the courtroom. She completed her docket without incident.

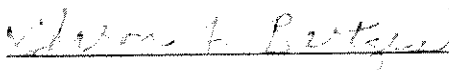
6. When Judge O'Banner-Owens returned from her lunch break, I was seated at my desk. Judge O'Banner-Owens entered her chambers without speaking to me and shut her door. Shortly after, Chief Judge Marilyn Atkins and my supervisor, Ruth Whitby, arrived and went into the judge's chambers.

7. My supervisor later came out and said I had to leave because Judge O'Banner-Owens was afraid and felt threatened by me. I was shocked as Judge O'Banner-Owens and I had not spoken that morning. The morning docket had been completed without incident and there was no provocation for her claim.

8. I had noticed a deterioration in Judge O'Banner-Owens emotional or mental state and behavior over the preceding year or two with respect to her on and off-the-bench conduct and had voiced my concerns to my supervisor, Willie Cockrell.


Laura Smith

Sworn to and subscribed before me
this 3rd day of February 2007.



Notary Public, Macomb County, Michigan 
My Commission expires April 20, 2008

**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

AFFIDAVIT OF HON. MARYLIN E. ATKINS

State of Michigan]
Wayne County |

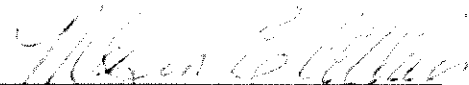
HON. MARYLIN E. ATKINS, being sworn, says:

1. I am Marylin E. Atkins, Chief Judge of the 36th District Court, Detroit, Michigan. I am familiar with the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them.


2. On or about July 28, 2005, I received a call from 36th District Court Judge Jeanette O'Banner-Owens asking me to come to her. She claimed she was locked in her chambers because she feared for her life. The source of her fear was Laura Smith, her longtime court reporter. As I arrived, I met Ruth Whitby, the temporary court reporters' supervisor, in the hall. She had also been called by O'Banner-Owens with a similar message. When we went in, Judge O'Banner-Owens said she wanted Laura Smith removed. She continued to claim she was afraid of her and felt threatened by her. Ms. Whitby agreed to remove Laura, went out, and proceeded to help Laura pack up her things.

3. At the time, I was aware that Judge O'Banner-Owens had had some temperament problems in the past, but had recently noted increasingly strange and eccentric behavior in her speech, which continues. For example, at bench meetings, she has made off-the-wall comments unrelated to anything being discussed. For some time, Judge O'Banner-Owens has

begun injecting religious-oriented comments in her speech to me and other judges. Examples include, but are not limited to, comments like "life is in God's hands," "God is good," "I am blessed," and greeting others as a "sister in Jesus," as well as comments like "God is going to get you" when she is upset. When questioned by staff from the Judicial Tenure Commission, I have voiced such concerns. I must be concerned about the image of the court and the constitutional mandate of separation of church and state as we deal with the public.


Hon. Marilyn Atkins
Chief Judge, 36th District Court

Sworn to and subscribed before me
this 22 day of February 2007.


Notary Public, Washtenaw County, Michigan
My Commission expires June 22, 2013

**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

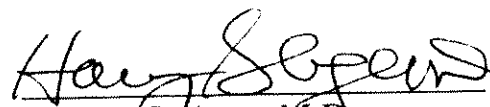
AFFIDAVIT OF HARVEY G. AGER, M.D.

State of Michigan|
Wayne County |

HARVEY G. AGER, M.D., being sworn, says:

1. I am Harvey G. Ager, M.D., Board Diplomate, American Board of Psychiatry and Neurology. I am familiar with the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them.
2. Pursuant to a request from the Judicial Tenure Commission, I examined Hon. Jeanette O'Banner-Owens for approximately one and one-half hours at my office on December 9, 2005, for purposes of conducting a psychiatric evaluation in reference to the judge's current mental status and ability to perform her duties as a judge in the 36th District Court. Prior to my evaluation, I reviewed various complaints against Judge O'Banner-Owens over approximately the past four years. I prepared a 17-page report containing my findings and conclusions which I provided to the Judicial Tenure Commission.
3. I found evaluating Judge O'Banner-Owens rather difficult because she exhibited a great deal of denial and appeared to have very little psychological insight. She tends to project blame on others.
4. During the evaluation, Judge O'Banner-Owens demonstrated confusion about several dates, involving matters such as education, divorce, and birthdates, and made several mistakes subtracting the number 7 serially, with overt anxiety.

5. Judge O'Banner occasionally responded with *non sequiturs*. For example, when I asked her if she had ever applied for a promotion or transfer of any type, she mentioned something about going to Jerusalem and seeing a kibbutz and deciding she was happy where she was.
6. Although I was unable to make a formal psychiatric diagnosis at the time, I suspected Judge O'Banner-Owens was exhibiting significant psychiatric pathology of a paranoid nature which could influence her ability to perform her usual job as a judge. More than likely, Judge O'Banner-Owens has always had a paranoid style of personality, but judging from information I received, it sounds as though in recent years her paranoia has been escalating to the point where it has become quite obvious to those around her that she is acting in a somewhat bizarre fashion.
7. Based on my examination, I have strong doubts about Judge O'Banner-Owens ability to appropriately and impartially fulfill her duties as a 36th District Court Judge on a consistent basis. As a citizen, I would not feel comfortable having her preside over any matter in which I was involved.



Harvey G. Ager, M.D.
Board Diplomate, American Board
of Psychiatry and Neurology

Sworn to and subscribed before me
this 17th day of February 2007.

Notary Public, Washtenaw County, Michigan
My Commission expires 5-12-12



HARVEY G. AGER, M.D., P.C. / PSYCHIATRY
CARSON CENTRE
29355 NORTHWESTERN HIGHWAY, SUITE 140
SOUTHFIELD, MICHIGAN 48034
(248) 356-8050 FAX (248) 356-8054

BOARD DIPLOMATE, AMERICAN BOARD OF PSYCHIATRY & NEUROLOGY

Curriculum Vitae

Education

- | | |
|---------|--|
| 1958-62 | Bachelor of Science, Psychology, four-year premedical studies. Wayne State University, Detroit, MI |
| 1962-66 | Doctor of Medicine, Wayne State University School of Medicine, Detroit, MI |
| 1966-67 | Rotating Internship. University of Southern California/Los Angeles County General Hospital Medical Center |
| 1967-70 | Three Year Residency in Psychiatry, University of California, Los Angeles—Neuropsychiatric Institute, The Center for Health Sciences |
| 1970-71 | One Year Fellowship in Forensic Psychiatry, UCLA, Department of Legal Psychiatry; NIH Fellowship Grant |
| 1970-72 | Master's Degree in Social Psychiatry. UCLA Post-Doctorate Program, UCLA—NPI Department of Community Psychiatry; Two-Year NIMH Fellowship Grant |

Certification

- | | |
|------|--|
| 1997 | Board Certified by the American Academy of Experts in Traumatic Stress |
| 1997 | Fellow, American College of Forensic Examiners |
| 1997 | Board Certified by the American Board of Forensic Examiners |

Harvey Gerald Ager, M.D.

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Certification, Continued

- | | |
|---------|--|
| 1975 | Board Certified by the American Board of Psychiatry and Neurology |
| 1974-75 | Certified by Los Angeles County Health Services for successful completion of training program in administrative psychiatry |

State Licensure

- | | |
|------|--|
| 1967 | Licensed to practice medicine in both Michigan (#2771) and California (#C-29643) |
|------|--|

Professional Positions

- | | |
|--------------|---|
| 2002-Present | Psychiatric Consultant, Judicial Tenure Commission |
| 1983-Present | Psychiatric Consultant, Detroit Police Department |
| 1976-Present | Private Practice, General Adult Psychiatry, Southfield, MI |
| 1977-79 | Staff Psychiatrist, Alcoholism Unit – Detroit Memorial Hospital, Detroit, MI |
| 1977-Present | Adjunct Assistant Professor – Wayne State University School of Medicine, Department of Psychiatry, Detroit, MI |
| 1977-Present | Assistant Clinic Professor – Wayne State University School of Medicine, Department of Community Medicine, Detroit, MI |
| 1977-78 | Senior Staff Psychiatrist. Administrator of Unit Three North, Adult Inpatient Unit – The Lafayette Clinic, Detroit, MI |
| 1977-78 | Instructor of Legal Psychiatry – Wayne State University Law School. Psychiatry and Law Seminar Services for psychiatric residents and law students, Detroit, MI |

Harvey Gerald Ager, M.D.

Page 3

Professional Positions, Continued

1978-79	Psychiatric Consultant – State of Michigan, Department of Education, Bureau of Rehabilitation, Oak Park, MI
1977-78	Chief Psychiatrist for The Sleep Center and Laboratory Division of Psychobiology – The Lafayette Clinic, Detroit, MI
1978-79	Psychiatric Consultant – Madison Heights Police Department, Madison Heights, MI
1977-78	Psychiatric Consultant – Family Service Agency of Detroit and Wayne County, Detroit, MI
1972-75	Assistant Clinical Professor of Psychiatry, UCLA School of Medicine, Center for Health Sciences, Los Angeles, CA
1974-75	Instructor and Preceptor in Neuropsychology – Post-Doctorate studies –UCLA Neuropsychiatric Institute, Los Angeles, CA
1974-75	Clinical Instructor, Brentwood Veterans Administration, Los Angeles, CA. Supervision of first-year psychiatric residents
1973-76	Member, Advisory Board, Alcoholism Council of Los Angeles, CA
1972-75	Chief, West San Fernando Valley Mental Health Services – Los Angeles County Department of Health Services
1971-73	Psychiatric Director, Van Nuys Diversionary Program for Criminal Offenders, Van Nuys, CA
1972-75	Psychiatric Consultant, Los Angeles Police Department, West Valley Precincts
1970-75	Private Practice, Adult Psychiatry, Encino, CA

Professional Positions, Continued

- | | |
|---------|---|
| 1970-72 | Staff Psychiatrist, Los Angeles County Department of Mental Health. |
| 1966-70 | Psychiatric Consultant, Terminal Island Federal Correction Institute, San Pedro, CA |

Professional Awards

- | | |
|---------|--|
| | AMA Recognition Awards for Continued Professional Education |
| | APA Recognition Awards for Continued Medical-Psychiatric Education |
| 1965-66 | Alpha Omega Alpha Honorary Medical Society - for outstanding achievement in medical school - sophomore and junior years |
| 1962 | Psi Xi Honorary Psychology Society – for outstanding academic achievement in psychology studies, undergraduate, Wayne State University Chapter |

Professional Papers and Presentations

- | | |
|------|--|
| 2004 | Aspects of Forensic Psychiatry, presented at professional seminar, Western Michigan University, Grand Rapids campus |
| 2002 | "Evaluating Stress in the Workplace," presented at professional seminar, Indianapolis, IN |
| 2002 | "Stress Claims and Mental Disabilities," presented at IALABC 29 th International College, Orlando, FL |
| 2002 | "Psychiatric Problems in the Workplace," presented at professional seminar, Novi, MI |
| 2001 | "Evaluating Psychiatric Disabilities," presented at Training Seminar for Mediators and Magistrates, State of Michigan, Michigan State University, Kellogg Center, East Lansing, MI |

Professional Papers and Presentations, Continued

- 1988 "Diagnosis of Post-Traumatic Stress Disorder," MACD Journal, pp. 4-16
- 1978 "Alternative to Hospitalization of the Alcoholic," presented at the Wayne County Medical Society Symposium on Alcoholism, Detroit, MI
- 1978 "Depression in Chronic Schizophrenia," The American Journal of Psychiatry, 135:7, July 1978
- 1972 "Consultation in a General Hospital," Northridge, CA, presented to the UCLA Department of Social Psychiatry
- 1971 A Survey of the Staff Needs in a Community Service Agency," Venice, CA, presented to the UCLA Department of Social Psychiatry
- 1970 Resistance of Psychiatric Residents to Supervision," presented to the UCLA Department of Psychiatry, Neuropsychiatric Institute
- 1968 Social and Community Psychiatry – New Trend in Psychiatry," presented to Veterans Hospital, Minnesota, for the UCLA Department of Audio-Visual Studies

Professional Societies

American Psychiatric Association
Michigan Psychiatric Society
American Medical Association
Michigan Medical Society
Oakland County Medical Society
American Academy of Psychiatry and Law
American Academy of Forensic Sciences
American Society of Law and Medicine
The American College of Preventive Medicine
The Academy of Psychosomatic Medicine
American College of Forensic Examiners
The American Academy of Experts in Traumatic Stress

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Current Hospital Affiliations

Harper-Grace Hospital, Detroit, MI
The Detroit Medical Center, Detroit, MI

Past Hospital Affiliations

The Lafayette Clinic, Detroit, MI
Woodside Medical Hospital, Pontiac, MI
Kingswood Hospital, Ferndale, MI
Detroit Memorial Hospital, Detroit, MI
Woodview-Calabassas Hospital, Calabassas, CA
UCLA Health Center, Los Angeles, CA

**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

AFFIDAVIT OF MANFRED GREIFFENSTEIN, PH.D., ABPP-CN

State of Michigan|
Wayne County |

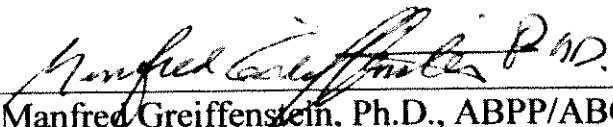
MANFRED GREIFFENSTEIN, PH.D., being sworn, says:

1. I am Manfred Greiffenstein, Ph.D., ABPP-CN, Certified, American Board of Clinical Neuropsychology. I am familiar with the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them.
2. Pursuant to a request from the Judicial Tenure Commission, I evaluated Judge Jeanette O'Banner-Owens in my office for approximately four hours on January 24, 2006 for the purpose of determining whether cognitive impairment and/or clinical psychopathology are present, and if so, their relationship to the judge's alleged behaviors. In addition to my examination and testing, I reviewed materials from the Judicial Tenure Commission and Dr. Harvey Ager's diagnostic psychiatry report dated December 9, 2005. I prepared a nine-page report containing my findings and conclusions which I provided to the Judicial Tenure Commission.
3. Certain tests revealed mild memory impairment. For example, Judge O'Banner-Owens was given the Folstein Mini-Mental State Examination with special reference to prospects for dementia. Her score of 24 correct out of 30 possible was mildly defective and below expectation for her age and education level. Errors that contributed to

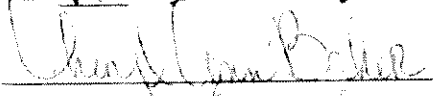
this score included not knowing the date, confusion difficulties subtracting 7's serially, and object recall of 2/3 objects after brief delay.

4. Judge O'Banner-Owens memory capacity was evaluated with the Wechsler Memory Scale-III (Abbreviated). Her Immediate Memory score of 80 was in the bottom nine percent of women her age; thus she has mild difficulty maintaining information immediately following removal of the stimulus. Her delayed memory standard score of 87 was also mildly weak, placing her in the 19th percentile of her age group. Her recall score in the California Learning Test-II Total Recall score of 38 words was normal for her age, but her recall score following a brief delay of 5/16/word was in the mildly-abnormal range.
5. Judge O'Banner-Owens made occasional word substitution errors, such as describing her oncologist as employed at "law school" and she exhibited memory retrieval difficulties involving time frames and dates.
6. I concluded that Judge Jeanette O'Banner-Owens presented with definite mild deficits in memory and higher cognitive functions. Her scores were more consistent with an age much older than her chronological age. The diagnosis of "Mild Cognitive Impairment" ("MCI") is apt and is associated with increased risk for later dementia, although not automatically dispositive of the diagnosis.
7. Persons with MCI can function well with routine activities, but may show pronounced behavior problems when overloaded or confronted with novel situations. The judge did not meet the criteria for dementia at the time I examined her.

8. In summary, I found Judge O'Banner-Owens presented with Mild Cognitive Impairment in the form of memory and higher cognitive difficulties greater than would be expected for her age and intellectual level. These neurocognitive findings could influence her performance as a judge under conditions of novelty and higher than normal workloads.
9. Based on my examination, I have strong doubts about Judge O'Banner-Owens' ability to understand, encode, and recall the large volumes of evidence necessary to fulfill her duties as a 36th District Court Judge on a consistent basis.

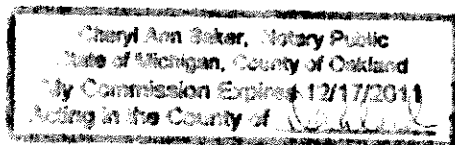

Manfred Greiffenstein, Ph.D., ABPP/ABCN
Board Certified, American Board of
Clinical Neuropsychology

Sworn to and subscribed before me
this 14 day of February 2007.



Notary Public, Oakland County, Michigan
My Commission expires 12/17/2011

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Manfred F. Greiffenstein, Ph.D., ABPP-CN

Diplomate, American Board of Clinical Neuropsychology
Diplomate, American Board of Sleep Medicine
Fellow, American Academy of Sleep Medicine

Vita last updated September 2005

Contact Information

Postal Address

Psychological Systems, Inc.
26862 Woodward
Suite 103
Royal Oak, MI 48067

Telephone (248)

398 2200

Fax

(248) 398 2280

E-Mail

mfgreiff@comcast.net

Certification, Licensure, Awards

June, 1998

Fellow, The American Academy of Sleep Medicine

June, 1997

Board Certified as Accredited Clinical Polysomnographer (ACP)
The American Board of Sleep Medicine

October, 1994

Board Certified as Clinical Neuropsychologist
The American Board of Clinical Neuropsychology (ABCN),
American Board of Professional Psychology (ABPP)

1986 and 1989

Outstanding Performance Award
Veteran's Administration

November, 1985

Psychology License
State of Michigan
License # 6301002413

1979 - 1983
WSU Graduate Scholarship Award
1979 - 1983

1970 - 1974 Phi
Beta Kappa
Wayne State University

**Professional
memberships**

American Sleep Disorders Association
Voting Member since 1997

American Psychological Association (APA)
Voting Member since 1985

- APA Division 28 -- Psychopharmacology
- APA Division 29 -- Law and Psychology
- APA Division 40 -- Clinical Neuropsychology

Michigan Psychological Association
Member since 1988

International Neuropsychological Society (INS)
Voting Member since 1984

Michigan Sleep Disorders Association

**Professional
activities**

Scientific Work

- Ad hoc reviewer, *Journal of the International Neuropsychology Society*, since May 2005
- Consulting Editor, *Journal of Clinical and Experimental Neuropsychology*, since January 2004.
- Ad hoc reviewer, *journal of Perceptual and Motor Skills* (since 1999)
- Ad hoc reviewer, APA journal *Psychological Assessment* (since 1998)
- Ad hoc reviewer, *The Clinical Neuropsychologist* (since 1998), official journal of the American Academy of Neuropsychology
- Ad hoc reviewer, *Journal of Clinical and Experimental*

Neuropsychology, from 2000-Dec 2003.

- Ad hoc reviewer, *Journal of Clinical Psychology* (since 2001)
- Alzheimer's Disease and Related Disorders Association (1984 – 1988)

Certification Board and Committee Work

- Elected Secretary, American Academy of Neuropsychology, February 2004 – present.
- Elected Member, Board of Directors, American Academy of Clinical Neuropsychology, Term 2003 – 2007
- Casebook reviewer, American Board of Clinical Neuropsychology, 1995-present
- Test development committee, American Board of Clinical Neuropsychology, 1996-1997.
- Test development Committee, item writer, American Board of Sleep Medicine, 1999
- Member, Professional Affairs Committee International Neuropsychology Society
 - Development of public policy
 - Professional standards for neuropsychologists and ethics

Education

Undergraduate

- 1972 – 1973 University of Freiburg, West Germany
- “Junior Year in Freiburg and Munich” Program
 - Coursework in psychology and statistics
 - Coursework in German literature and Roman history
- 1970 – 1974, Wayne State University, Detroit MI,
- Bachelors of Science, Psychology
 - Bachelors of Arts, German

Graduate School

- 1975 – 1977 Eastern Michigan University, Ypsilanti, MI
- M.S. awarded in Clinical Psychology
 - Minor in Neuroanatomy

9/1979 - 12/1983, Wayne State University, Detroit

- APA approved Clinical Psychology Program
- Ph.D. in Clinical Psychology
- Clinical Neuropsychology Specialty Track
- Minor in Psychobiology
- Minor in Psychopharmacology

Advanced and Post-Graduate Education

9/1982 – 4/84 Harvard University School of Medicine,
Cambridge, MA

- Behavioral Neurology Proseminar
- Cerebral Laterality Proseminar
- Neurology Grand Rounds in Harvard Teaching Hospitals

9/82 – 9/83 Boston & Clark University Boston, MA

- Neuropsychology Proseminar I, Memory Disorders
- Neuropsychology Proseminar II, Neurocognitive Disorders
- Instructors included Nelson Butters, Laird Cermak

Training

Internships

5/1976 - 9/1976 Washtenaw County Child Guidance
Center, Ann Arbor, MI

- Psychology intern, full time (40 hours per week)
- Family therapy
- Assessment of attention deficit and hyperactivity disorder

9/1981 – 8/1982 Michigan Osteopathic Medical Center,
Detroit, MI

- Psychology and Neuropsychology Intern, part-time intern (26 hours per week)
- Psychological and neuropsychological assessment of psychiatric inpatients
- Supervisor: Douglas Whitman, PhD

9/1980 – 8/1981 University Health Center and Detroit
Receiving Hospital

- Psychology Intern, part-time (20 hours per week)
- Psychological assessment of psychiatric and chronic pain patients
- Biofeedback training for chronic pain patients
- Individual and group psychotherapy of depression

9/1979 - 5/1980 Psychology Clinic, Wayne State University

- Psychotherapy Intern, part-time (8 hours per week)
- Psychoanalytic and cognitive-behavioral psychotherapy
- Supervisor Kenneth Davidson, Ph.D.

9/1982 -- 9/1983 Boston Veteran's Hospital
 Boston, MA

- Neuropsychology Intern, Full-time Internship
- Teaching hospital for Harvard and Tufts Medical Schools
- APA approved program
- Neuropsychological assessment and treatment of patients with wide variety of cerebral disorders
- Active on the Behavioral Neurology, Neurosurgery and Rehabilitation floors
- Instructors: Edith Kaplan PhD, ABPP-CN
 Harold Goodglass, Ph.D., ABPP-CN
 Norman Geschwind, MD
 Michael Alexander, MD

Advanced Training

9/1986 -- 9/1989 Allen Park Veterans Hospital and Wayne
 State University School of Medicine
 Dearborn and Detroit, MI

- Training in polysomnography (reading sleep recordings)
- Sleep disorders medicine diagnosis and treatment
- Supervisor: Sheldon Kapen, M.D., A.C.P

Professional experience

Most Recent Experience

1990 -- present Private Practice
 Royal Oak, MI

Licensed Psychologist

- Full-time private practice
- Neuropsychological consultation
- Sleep disorders diagnosis and treatment
- Forensic Psychology
- Research and statistical analysis
- Courtesy Staff, St. John Hospital, Detroit
- Courtesy Staff, Macomb Hospital
- Assistant medical director, Sleep Disorders Unit, Mercy-Memorial Hospital, Monroe MI

Past Professional Experience

1985 – 1989 Holy Cross Hospital
Detroit, MI

Consulting Neuropsychologist

- Geriatric psychiatry unit
- Differential diagnosis of dementia vs. depression

4/1984 – 1/1990 Allen Park VAMC
Dearborn MI

Chief of Neuropsychology Consultation Service

- Intern Supervisor of APA approved program
- Assessment of patients with brain disorders due to alcohol, dementia, stroke, brain tumors

9/1983 – 4/1984 Community Re-Entry Head Injury
Program (New Medico)
Lynn, Massachusetts

Staff Neuropsychologist

- Residential treatment center
- Evaluation and treatment
- Mild to catastrophic brain injury patients
- Also evaluation of spina bifida and anoxia patients

1/1977 – 9/1980 Lafayette Clinic
Detroit, MI

Staff Neuropsychologist

- Neurology and Psychiatry Services
- Assessment focus on Halstead-Reitan Battery
- Focus on seizure disorders, schizophrenia, adult and child learning disability

Publications and Research Activity

Articles Published in Refereed Scientific Journals

Brown, G.B., Simkins-Bullock, J., Woodard, J.L., Cushman, Greiffenstein, M., L., Malik, G., & McGillicuddy, J. (1995). Modeling the immediate free recall impairment of patients with surgical repair of anterior communicating artery aneurysms. *Neuropsychology*, 9: 27-38.

Fox, D.D., Greiffenstein, M.F., & Lees-Haley, P.R. (2005). Commentary on cognitive impairment with toxigenic fungal exposure. *Applied Neuropsychology*, 12:129-33.

Greiffenstein, M.F. (2002). An analysis of premorbid MMPI profiles in 28 late postconcussion claimants. *Division of*

Clinical Neuropsychology Newsletter 40, 20: 9 --14.

Greiffenstein, M.F. & Baker, W.J. (2001). Comparison of premorbid and postinjury MMPI-2 profiles in late postconcussion claimants. *The Clinical Neuropsychologist*, 15:162-170.

Greiffenstein, M.F. & Baker, W.J. (2002). Neuropsychological and psychosocial correlates of adult arithmetic deficiency. *Neuropsychology*, 16: 451-458.

Greiffenstein, M.F. & Baker, W.J. (2004). Premorbid clues? Preinjury scholastic performance and present neuropsychological functioning in late postconcussion syndrome. *The Clinical Neuropsychologist*, 17, 561-573.

Greiffenstein, M.F., Baker, W.J., Axelrod, B., Peck, E.A., & Gervais, R. (2004). The Fake Bad Scale and MMPI-2 F-Family in detection of implausible psychological trauma claims. *The Clinical Neuropsychologist*, 18, 573-590.

Greiffenstein, M.F., Baker, W.J., Donders, J. and Miller, L. (2002). The Fake Bad Scale in atypical and severe closed head injury litigants. *Journal of Clinical Psychology*, 58, 1591-1600.

Greiffenstein, M.F., Baker, W. J., & Gola, T. (1994). Validation of measures of malingered amnesia with a large clinical sample. *Psychological Assessment*, 6:218-224.

Greiffenstein, M.F., Baker, W.J., & Gola, T. (1995). MMPI-2 vs. domain specific measures in the detection of factitious traumatic brain injury. *The Clinical Neuropsychologist*, 9: 230-240.

Greiffenstein, M.F., Baker, W.J. & Gola, T. (1996). Comparison of multiple scoring methods for Rey's malingered amnesia measures. *Archives of Clinical Neuropsychology*, 11:283-293.

Greiffenstein, M.F., Baker, W.J., & Gola, T. (1996). Motor dysfunction profiles in documented TBI and postconcussion syndrome. *Neuropsychology*, 2:477-485.

Greiffenstein, M.F., Baker, W.J., & Gola, T. (2002). Brief report: Anosmia and remote outcome in closed head injury. *Journal of Clinical and Experimental Neuropsychology*, 24:705-709.

Greiffenstein, M.F., Baker, W.J., & Gola, T. (2003). Straw man walking: Reply to Varney (2002). *Journal of Clinical and Experimental Neuropsychology*, 25:152-154.

Greiffenstein, M.F., Baker, W.J., & Johnson-Greene, D. (2002). Self-reported versus actual scholastic achievement of litigating late postconcussion and severe head injury claimants. *Psychological Assessment*, 14:202-208.

Greiffenstein, M., Jacobs, L. and Brinkman, S. (1988). Neuropsychological recovery as a function of right and left vessel carotid endarterectomy. *Cortex*, 24:223-230.

Milberg, W., Greiffenstein, M., Lewis, R. and Rourke, D. (1980). Differentiation of temporal lobe and generalized seizure patients with the WAIS. *Journal of Clinical and Consulting Psychology*, 48:39-42.

Greiffenstein, M., Milberg, W., Lewis, R., and Rosenbaum, G. (1981). "Temporal Lobe Epilepsy and Schizophrenia: Comparison of reaction time deficits." *Journal of Abnormal Psychology*, 90:105-111.

Greiffenstein, M., Verma, N.P., Nichols, C.N., Delacruz, C. (1989). Neuropsychological validation of two dementia categories. *Journal of Behavioral Neurology, Neuropsychology and Neuropsychiatry*, 2:21-30.

Lees-Haley, P.R., Greiffenstein, M.F., Larrabee, G.J., & Manning E.L. (2004). Methodological problems in the neuropsychological assessment of effects of exposure to welding fumes and manganese. *The Clinical Neuropsychologist*, 18:449-464.

Verma, N.P., Hakim, H. and Greiffenstein, M. Pathogenesis of reduplicative paramnesia (1989). *Journal of Neurology, Psychiatry and Neuropsychiatry*, 51:839-84.

Verma, N.P., Greiffenstein, M., Verma, N., King, S.D. and Caldwell, D. Electro-physiological validation of two categories of dementia. *Clinical Electroencephalography*, 1987, 18:26-33.

Verma, N.P., Yusko, M., & Greiffenstein, M. (1993). Carbamazepine offers no psychotropic advantage over phenytoin in adult epileptic subjects. *Seizure*, 2:53-56.

Verma, N.P., Nichols, C.N., Greiffenstein, M.F., & Buber, B. (1988). Average neuropsychological impairment ratings correlate with interictal behavior disorder. *Epilepsia*, 29:669

Verma, N.P. Nichols, C.N., Greiffenstein, M., Singh, R.P. and Hurst-Gordon, D. Waves earlier than P300 are more informative in putative subcortical dementias: A study with brain mapping and neuropsychological techniques. *Brain Topography*, 1989, 1:183-191.

Refereed Published Abstracts from Scientific Meetings

Baker, W.J. & Greiffenstein, M.F. (2001). Premorbid Clues: descriptive analysis of scholastic records in litigating chronic head injury claimants. *Archives of Clinical Neuropsychology*, 16:739. (NAN Convention issue)

Gola, T.G, Baker, W.J., & Greiffenstein, M. (1994). Observed and predicted IQ differences in litigated head injury. *Archives of Clinical Neuropsychology*, 9:132-133.

Gola, T., Baker, W.J., & Greiffenstein, M.F. (1995) Discriminant function analysis of popular neuropsychological tests in discrimination of malingering from documented closed head injury. *Archives of Clinical Neuropsychology*, 10:293-294.

Greiffenstein, M.F., Gola, T.G. & Baker, W.J. (1994) Comparison of multiple scoring methods for Rey's malingered amnesia measures, *The Clinical Neuropsychologist*, 1994, 8:343.

Greiffenstein, M.F. & Baker, W.J. (1996). What kind of faking does the Fake Bad Scale measure? *American Psychology-Law Society Newsletter*, (APA Convention Issue)

Greiffenstein, M.F., & Baker, W.J. (1996). Polypharmacy and neuropsychological functioning in postconcussion syndrome. *The Clinical Neuropsychologist* (Convention Issue).

Greiffenstein, M.F. & Baker, W.J. (1996). Anosmia in the prediction of TBI outcome. *The Clinical Neuropsychologist*. (Convention Issue).

Greiffenstein, M.F. & Baker, W.J. (2001). Descriptive

analysis of premorbid MMPI-2 profiles in chronic postconcussive claimants. *Journal of the International Neuropsychology Society*, 7:181.

Greiffenstein, M.F. & Baker, W.J. (2002). Head injury severity is inversely related to symptom validity tests in poor outcome patients. *Journal of the International Neuropsychological Society*, 8: 246.

Greiffenstein, M.F. & Baker, W.J. (2002). The test of time: Does the Rey 15 Item memory test still work? *Archives of Clinical Neuropsychology*, NAN Convention Edition.

Greiffenstein, M.F. & Baker, W.J. (2002). Premorbid clues: Preinjury scholastic performance and HRB scores in litigated head injury. *Journal of the International Neuropsychological Society*, 8: 247.

Greiffenstein, M.F. & Baker, W.J. (2003). Validity testing in dual diagnosis of PTSD and mild TBI. *The Clinical Neuropsychologist*, 17:107 (APA annual convention poster session).

Greiffenstein, M., Baker, W.J., and Gola, T. (1993). Validation of popular neuropsychological malingering measures. *The Clinical Neuropsychologist*, 7:333. (Convention Issue Abstract)

Greiffenstein, M., Baker, W.J., & Gola, T. (1995). Motor dysfunction profiles in litigating postconcussion claimants. *The Clinical Neuropsychologist*, 9:277-278.

Greiffenstein, M., Baker, W.J., & Gola, T.G. (1995). The MMPI-2 versus domain specific measures in detection of neuropsychological dissimulation. *Journal of the International Neuropsychology Society*, 1:375.

Greiffenstein, M.F., Baker, W.J., & Gola, T. (1995). Neuropsychological, psychosocial, handedness and gender correlates of adult arithmetic deficiency. *The Clinical Neuropsychologist*, 9: 267.

Greiffenstein, M.F., Baker, W.J., & Gola, T. (2001). Epidemiology of invalid performances in a large postconcussion sample. *Journal of the International Neuropsychology Society*, 7: 148.

Greiffenstein, M.F., Baker, W.J., & Johnson-Greene (2001).

Self-reported versus actual scholastic performance of
litigating head injury patients. *Archives of Clinical
Neuropsychology*, 16:810-811. (NAN Convention issue)

Greiffenstein, M.F., Baker, W.J., Gola, T., Kinsora, T.F., & Verma, N.P. Verbal priming in fluent aphasia and dementia. *The Clinical Neuropsychologist*, 9:292.

Greiffenstein, M.F. & Lees-Haley, P.R. (2005). Neuropsychological correlates of manganese exposure: A meta-analysis. *The Clinical Neuropsychologist*, 19:150. Poster presented at the American Academy of Clinical Neuropsychology meeting, Minneapolis.

Greiffenstein, M.F. & Millis, S.R. (2004). The Test of Memory Malingering may be a general effort construct. *The Clinical Neuropsychologist*, 18, 479-480.

Greiffenstein, M., Verma, N.P. and Nichols, C.D. (1988). Mental speed and naming disturbance differentiates groups with putative subcortical and cortical dementia. *Neurology*, 38(Sup. #1):415.

Kapen, S. and Greiffenstein, M. Asymmetry of post-stroke depression: Contribution of sleep studies. *Neurology*, 1988, 38:299.

Kinsora, T., Greiffenstein, M.F. and Verma, N. (1989). Anoeitic verbal priming in cortical and subcortical dementia. *Journal of Experimental and Clinical Neuropsychology*, 11, 331.

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Fox, D.D., Greiffenstein, M.F., Lees-Haley, P.R. (2005). Commentary on cognitive impairment with toxigenic fungal exposure. *Journal of Applied Neuropsychology*, Vol. 12: 129-133.

Greiffenstein, M.F. (1996). "The Neuropsychological Autopsy". *Michigan Bar Journal*, Vol. 75: 424-425.

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Greiffenstein, M.F. (2002). Selecting a neuropsychologist as an expert witness. *Michigan Bar Journal*, Vol. 81: 45-46.

Greiffenstein, M.F. (2002). Know your audience. Review of the book "The Consumer Oriented Neuropsychology Report" by Armengol, Kaplan and Moes (Eds.). *Journal of the International Neuropsychology Society*, 8: 965-966.

Greiffenstein, M.F. (2003). Testamentary competence: Antemortem and postmortem neuropsychological analysis. *Division of Clinical Neuropsychology Newsletter* 40, 21:7-9, 33-36.

Greiffenstein, M.F. (2003). The case for the case study. Review of the book "Mind Matters" by K. Heilman. *National Academy of Neuropsychology Newsletter*, July Issue.

Book Chapters

Greiffenstein, M.F. (2003). Neuropsychology research in a private practice setting. In G.F. Lamberty & R. Heilbronner (Eds.), *The Practice of Clinical Neuropsychology*. Lisse, Netherlands: Swets-Zeitlinger, pp. 125-142.

Greiffenstein, M.F. (2004). Basic Introduction to Forensic Neuropsychology. In J. Morgan and J. Ricker (Eds.), *Handbook of Clinical Neuropsychology*. New York: Wiley, in preparation.

Greiffenstein, M.F. & Cohen, L. (2004). Forensic Neuropsychology: Working productively with attorneys. In G. Larrabee (Ed.), *Forensic Neuropsychology: A Scientific Approach*. New York: Oxford, pp. 29-91.

Greiffenstein, M.F. (2005). A dialogue with Manfred F. Greiffenstein. In R. Heilbronner (Ed.), *Forensic Neuropsychology Casebook* (pp. 343-362). New York: Guilford.

Greiffenstein, M.F. (2005). Sleep disorders and geriatric neuropsychology (chapter 13). In S. Bush and T. Martin (Eds.), *Geriatric neuropsychology. Practice essentials*. New York: Francis & Taylor

Thesis and Dissertation Involvement

Greiffenstein, M.F. (1983). *Impaired weight perception in schizophrenia: A further analysis*. Dissertation Abstracts.

Debra Joy Sheppard (1987). *Tracing the neuropsychological effects associated with alcoholism: A simultaneous test of three hypotheses*. Doctoral dissertation. Wayne State University, Detroit, MI.

Michael Smith (1988). *Impaired proprioception in chronic schizophrenia revisited*. Master's thesis, Wayne State University, Detroit, MI

Thomas Francis Kinsora (1991). *Stem completion priming in Alzheimer's type dementia and dementia associated with Parkinson's disease*. Doctoral dissertation. California Professional School of Psychology, Fresno, CA.

Grant Activity

Cognitive amnesic changes following surgical resection of

anterior circulation aneurysms (1987). Veteran's Administration Grant

Biological and psychometric indices of depression in CVA
Veteran's Administration Grant (1988). With Sheldon
Kapen, M.D.

Multi-Disciplinary validation of two dementia concepts (1989)
With Narayan Verma, M.D.
NIMH and VA

Breaking point: Predicting the decision to institutionalize by
Alzheimer patient primary care givers (1987). With Becky
Busby, Ph.D.

**STATE OF MICHIGAN
BEFORE THE JUDICIAL TENURE COMMISSION**

AFFIDAVIT OF LEONARD SAHN, M.D.

State of Michigan]
Wayne County]

LEONARD SAHN, M.D., being sworn, says:

1. I am Dr. Leonard Sahn, M.D., Diplomate, American Board of Psychology & Neurology (N), Clinical Neurophysiology. I am familiar with the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them.
2. Pursuant to a request from the Judicial Tenure Commission, I examined Respondent on September 25, 2006 for evaluation purposes only. In addition to my examination I reviewed various materials from the Judicial Tenure Commission, Dr. Harvey Ager's psychiatric evaluation report, dated December 9, 2005 and Dr. Greiffenstein's independent neuropsychological testing report, dated January 31, 2006. I prepared a five-page report containing my findings and conclusions which I provided to the Judicial Tenure Commission.
3. During my examination, I noted that Judge O'Banner-Owens denied any and all symptoms of any sort, physical or mental, that she was "extremely garrulous," bragged about her activities/accomplishments, and engaged in considerable namedropping. I found it possible that this was a manifestation of defensiveness, but it was a bit excessive.
4. With respect to the complaints against Respondent and the transcripts I reviewed, I concluded that if they constitute accurate portrayals of

events, I would also be concerned regarding this individual's neuropsychiatric status and her competency, particularly in a position of such high responsibility and in which the need for proper temperament, impartiality (and certainly the appearance of impartiality) and the ability to distinguish nuance and work under pressure are paramount.

5. In my experience of over 30 years, the diagnosis of dementia is far more likely when it is brought to the attention of the individual or physician by others.
6. Based on the information I had, and based on my own exam, and based on those things only, I could not make a diagnosis of dementia. However, in my own clinical practice and in the neurological literature, it is well documented and well known that the primary criteria for the diagnosis of dementia, which can present with primarily psychiatric manifestations, largely depends on the history. Therefore anyone hoping to make a diagnosis early on, particularly with respect to the early neuropsychiatric manifestations of organic dementia, must rely on the observations of others and the behaviors that occur on a daily basis, particularly in stressful situations. Thus, it was of particular concern to me that, for example, persons who have known her for a long time, have, according to my information, noted that there has been a marked deterioration in the judge's behavior over the last year or two.
7. I must also stress that individuals with early dementia or other neuropsychiatric manifestations of a dementing process usually deny the symptoms themselves, but they are obvious to individuals who know them well. In this particular case, since there are transcriptions

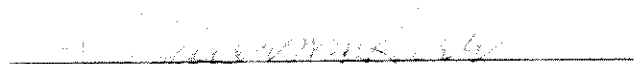
of actual interactions that Judge O'Banner-Owens has had in the course of her work, it seems obvious that, at the very least, there has been disinhibition. I would also comment that the syntax of the remarks of the judge are often not logically rigorous or do not make sense. Her remarks, at times, seem to be *non sequiturs*.

7. Based on my examination, I have strong doubts about Judge O'Banner-Owens ability to appropriately and impartially fulfill her duties as a 36th District Court Judge on a consistent basis. As a citizen, I would not feel comfortable having her preside over any matter in which I was involved.



Leonard Sahn, M.D.
Diplomate American Board of
Psychiatry & Neurology,
Clinical Neurophysiology

Sworn to and subscribed before me
this 07 day of February 2007.



Notary Public, Washtenaw County, Michigan
My Commission expires 3-23-06

LEONARD SAHN, M.D., P.C.
DIPLOMATE AMERICAN BOARD OF NEUROLOGY

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CURRICULUM VITAE

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Southfield, Michigan 48034
Telephone: (248) 355-1300

PERSONAL DATA:

Born July 23, 1946
Detroit, Michigan

EDUCATION:

Baccalaureate: University of Michigan
College of Literature, Science, and Arts
Honors College
B.A. Degree, High Honors and Distinction, Mathematics, 1968

Graduate: University of Michigan
Medical School
M.D. Degree, 1972

TRAINING:

Postgraduate: William Beaumont Hospital
Royal Oak, Michigan
Medicine Internship, 1972-73

University of Michigan Hospital
Neurology Residency
Russell N. DeJong, Chairman, 1973-76

FACULTY APPOINTMENTS

University of Michigan
Medical School
Clinical Instructor, Neurology, 1978-81

Wayne State University
School of Medicine
Clinical Assistant Professor, Neurology, 1990-Present

HOSPITAL OR OTHER PROFESSIONAL APPOINTMENTS:

Mount Carmel Mercy Hospital
Detroit, Michigan, 1976-1991
Section Chief, Neurology, 1979-1991
Director, EEG Laboratory, 1979-1991
Director, EMG Laboratory, 1986-1991

Sinai Hospital of Detroit
Detroit, Michigan, 1976-1999
Attending Physician

Grace Hospital
Detroit, Michigan, 1991-1999
Attending Physician
Neurology Section
Department of Internal Medicine

Sinai-Grace Hospital
Detroit, Michigan 1999-Present
Attending Physician
Neurology Section
Department of Internal Medicine

MAJOR PROFESSIONAL SOCIETIES:

American Academy of Neurology, 1974
Active Member, 1978-present

Michigan Neurological Association, 1973

Michigan Parkinson's Foundation
Professional Advisory Board, 1985-2000

American Academy of Electrodiagnostic Medicine, 1988

American Medical Association

LEONARD SAHN, M.D.

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LICENSURE AND BOARD CERTIFICATION:

Licensure: State of Michigan, #032241, July, 1973

Board
Certification: American Board of Psychiatry and Neurology, Inc.
(Neurology), Certificate #17769, April, 1978

American Board of Psychiatry and Neurology, Inc.
Special Qualifications in Clinical Neurophysiology,
Certificate #168, March, 1992
Recertified, May, 2002 through December 2012

HONORS/AWARDS:

National Merit Scholarship, 1964

Phi Beta Kappa Honor Society, 1968

National Science Foundation Grant Recipient, 1968

Lange Medical Book Award, 1969

Golden Stethoscope for Teaching Excellence, 1981

SERVICE:

Patient care: As part of service to hospital. Includes various teaching activities, i.e., outpatient clinic at Sinai Hospital.

Public presentations: None.

Testimony before public bodies: None.

Consulting to public agencies, foundations, professional associations:

1. Special consultant to Medicare Fraud Investigation Division
2. Special consultant to FBI Fraud Investigation
3. Consultant to Federal Grand Jury, 1997-98

National and international boards and committees:

Practice Parameters Review Committee, American Academy of Neurology

Revised January, 2003